

SENATE, No. 2828

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED MARCH 12, 2015

Sponsored by:

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District 28 (Essex)

Senator PETER J. BARNES, III

District 18 (Middlesex)

Senator M. TERESA RUIZ

District 29 (Essex)

SYNOPSIS

Establishes program allowing certain applicants to perform community service in lieu of paying motor vehicle surcharges

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/8/2015)

1 AN ACT concerning motor vehicle surcharges, supplementing Title
2 34 of the Revised Statutes, and amending P.L.1983, c.65.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. (New section) a. There is created within the Department of
8 Labor and Workforce Development a “Motor Vehicle Surcharge
9 Community Service Program” to be administered by the
10 Commissioner of Labor and Workforce Development. The purpose
11 of the program is to allow a person who is unemployed and has
12 enrolled in an education or job training program to perform a
13 community service project in lieu of the payment of a motor vehicle
14 surcharge or surcharges levied pursuant to paragraph (1) or
15 paragraph (3) of subsection b. of section 6 of P.L.1983, c.65
16 (C.17:29A-35). In implementing the program, the commissioner
17 shall coordinate with the Chief Administrator of the Motor Vehicle
18 Commission to waive motor vehicle surcharges imposed on
19 applicants who complete a community service project in
20 participating counties and municipalities that have enrolled in the
21 program pursuant to subsection e. of this section.

22 b. An applicant’s eligibility for participation in the program
23 shall be based on an examination of the applicant’s income and
24 other financial resources. In order to be eligible for the program an
25 applicant shall demonstrate to the commissioner that the applicant:

26 (1) is unemployed;

27 (2) has been assessed and is unable to pay a motor vehicle
28 surcharge or surcharges levied pursuant to paragraph (1) or
29 paragraph (3) of subsection b. of section 6 of P.L.1983, c.65
30 (C.17:29A-35); and

31 (3) is enrolled in a job training or education program, or is in the
32 process of applying for a commercial driver license or endorsement.

33 c. The commissioner shall notify the chief administrator upon
34 an applicant’s entry into the program. If the driving privilege of an
35 applicant has been suspended for failure to pay surcharges, the chief
36 administrator shall reinstate the applicant’s driving privilege when
37 the applicant commences a community service project with a county
38 or municipality in accordance with subsection e. of this section. If
39 an applicant fails to complete the community service project, the
40 total motor vehicle surcharges levied and any interest accrued
41 thereon shall become due immediately, and the driving privilege of
42 the applicant shall be suspended until the applicant satisfies the
43 outstanding surcharge assessment.

44 d. An applicant who meets the criteria set forth under
45 subsection b. of this section and successfully completes a
46 community service project may receive a certification from the

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 commissioner. The certification shall be forwarded by the
2 commissioner to the chief administrator who shall waive the full
3 principal amount of any motor vehicle surcharge or surcharges
4 levied upon the applicant pursuant to paragraph (1) or paragraph (3)
5 of subsection b. of section 6 of P.L.1983, c.65 (C.17:29A-35) and
6 any interest accrued thereon.

7 e. The governing body of any county or municipality may
8 apply to the commissioner to participate in the program. The
9 application shall be made in accordance with procedures and on
10 forms prescribed by the commissioner and shall indicate the eligible
11 projects for which the volunteer labor is requested. The eligible
12 community service projects shall include, but not be limited to,
13 improvements to county and municipal buildings, grounds, roads,
14 streams, and other county or municipal property. As used in this
15 act, "improvements" means construction, alteration, repair, litter
16 abatement, renovation, or maintenance of any county or municipal
17 property.

18 The use of volunteer labor shall not displace or remove from
19 employment any paid public or private employee or in any manner
20 reduce the workforce within a county or municipality. An applicant
21 who meets the criteria established in subsection b. of this section
22 shall not be denied participation in the program due to a lack of
23 community service projects.

24 f. The commissioner shall promulgate, pursuant to the
25 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
26 seq.) rules and regulations as are necessary to implement the
27 provisions of this act. These rules and regulations shall include
28 provisions to establish guidelines for the types of community
29 service projects for which a county or municipality may apply.

30

31 2. Section 6 of P.L.1983, c.65 (C.17:29A-35) is amended to read
32 as follows:

33 6. a. (Deleted by amendment, P.L.1997, c.151.)

34 b. There is created a Motor Vehicle Violations Surcharge
35 System which shall apply to all drivers and shall include, but not be
36 limited to, the following provisions:

37 (1) (a) Surcharges shall be levied, beginning on or after January
38 1, 1984, by the New Jersey Motor Vehicle Commission (hereinafter
39 the "commission") established by section 4 of P.L.2003, c.13
40 (C.39:2A-4) on any driver who, in the preceding 36-month period,
41 has accumulated six or more motor vehicle points, as provided in
42 Title 39 of the Revised Statutes; except that the allowance for a
43 reduction of points in Title 39 of the Revised Statutes shall not
44 apply for the purpose of determining surcharges under this
45 paragraph. The accumulation of points shall be calculated as of the
46 date the point violation is posted to the driver history record and
47 shall be levied pursuant to rules promulgated by the commission.
48 Surcharges assessed pursuant to this paragraph shall be **[\$150.00]**

1 \$150 for six points, and ~~【\$25.00】~~ \$25 for each additional point. No
2 offense shall be selected for billing which occurred prior to
3 February 10, 1983. No offense shall be considered for billing in
4 more than three annual assessments.

5 (b) (Deleted by amendment, P.L.1984, c.1.)

6 (2) (a) Surcharges shall be levied pursuant to subsection f. of
7 section 1 of P.L.2000, c.75 (C.39:4-97.2) for each offense of unsafe
8 driving under subsection a. of that section.

9 (b) Surcharges shall be levied for convictions (i) under
10 R.S.39:4-50 for violations occurring on or after February 10, 1983,
11 and (ii) under section 2 of P.L.1981, c.512 (C.39:4-50.4a), or for
12 offenses committed in other jurisdictions of a substantially similar
13 nature to those under R.S.39:4-50 or section 2 of P.L.1981, c.512
14 (C.39:4-50.4a), for violations occurring on or after January 26,
15 1984. Except as hereinafter provided, surcharges under this
16 subparagraph (b) shall be levied annually for a three-year period,
17 and shall be ~~【\$1,000.00】~~ \$1,000 per year for each of the first two
18 convictions, for a total surcharge of \$3,000 for each conviction, and
19 ~~【\$1,500.00】~~ \$1,500 per year for the third conviction occurring
20 within a three-year period, for a total surcharge of \$4,500 for the
21 third conviction. If a driver is convicted under both R.S.39:4-50 and
22 section 2 of P.L.1981, c.512 (C.39:4-50.4a) for offenses arising out
23 of the same incident, the driver shall be assessed only one surcharge
24 for the two offenses.

25 If, upon written notification from the commission or its designee,
26 mailed to the last address of record with the commission, a driver
27 fails to pay a surcharge levied under this section and collectible by
28 the commission, the driving privilege of the driver shall be
29 suspended forthwith until at least five percent of each outstanding
30 surcharge assessment that has resulted in suspension is paid to the
31 commission; except that the commission may authorize payment of
32 the surcharge on an installment basis over a period of 12 months for
33 assessments under \$2,300 or 24 months for assessments of \$2,300
34 or more. The commission, for good cause, may authorize payment
35 of any surcharge on an installment basis over a period not to exceed
36 36 months. If a driver fails to pay the surcharge or any installments
37 on the surcharge, the total surcharge shall become due immediately,
38 except as otherwise prescribed by rule of the commission.

39 The commission may authorize any person to pay the surcharge
40 levied under this section and collectible by the commission by use
41 of a credit card, debit card or other electronic payment device, and
42 the administrator is authorized to require the person to pay all costs
43 incurred by the commission in connection with the acceptance of
44 the credit card, debit card or other electronic payment device. If a
45 surcharge or related administrative fee is paid by credit or debit
46 cards or any other electronic payment device and the amount is
47 subsequently reversed by the credit card company or bank, the
48 driving privilege of the surcharged driver shall be suspended and

1 the driver shall be subject to the fee imposed for dishonored checks
2 pursuant to section 31 of P.L.1994, c.60 (C.39:5-36.1).

3 In addition to any other remedy provided by law, the commission
4 is authorized to utilize the provisions of the SOIL (Set off of
5 Individual Liability) program established pursuant to P.L.1981,
6 c.239 (C.54A:9-8.1 et seq.) to collect any surcharge levied under
7 this section and collectible by the commission that is unpaid on or
8 after the effective date of this act. As an additional remedy, the
9 commission may issue a certificate to the Clerk of the Superior
10 Court stating that the person identified in the certificate is indebted
11 under this surcharge law in such amount as shall be stated in the
12 certificate. The certificate shall reference the statute under which
13 the indebtedness arises. Thereupon the clerk to whom such
14 certificate shall have been issued shall immediately enter upon the
15 record of docketed judgments the name of such person as debtor;
16 the State as creditor; the address of such person, if shown in the
17 certificate; the amount of the debt so certified; a reference to the
18 statute under which the surcharge is assessed, and the date of
19 making such entries. The docketing of the entries shall have the
20 same force and effect as a civil judgment docketed in the Superior
21 Court, and the commission shall have all the remedies and may take
22 all of the proceedings for the collection thereof which may be had
23 or taken upon the recovery of a judgment in an action, but without
24 prejudice to any right of appeal. Upon entry by the clerk of the
25 certificate in the record of docketed judgments in accordance with
26 this provision, interest in the amount specified by the court rules for
27 post-judgment interest shall accrue from the date of the docketing
28 of the certificate, however payment of the interest may be waived
29 by the commission or its designee. In the event that the surcharge
30 remains unpaid following the issuance of the certificate of debt and
31 the commission takes any further collection action including
32 referral of the matter to the Attorney General or his designee, the
33 fee imposed, in lieu of the actual cost of collection, may be 20
34 percent of surcharges of \$1,000 or more. The administrator or his
35 designee may establish a sliding scale, not to exceed a maximum
36 amount of \$200, for surcharge principal amounts of less than \$1,000
37 at the time the certificate of debt is forwarded to the Superior Court
38 for filing. The commission shall provide written notification to a
39 driver of the proposed filing of the certificate of debt at least 10
40 days prior to the proposed filing; such notice shall be mailed to the
41 driver's last address of record with the commission. Upon the filing
42 of a certificate of debt with the Clerk of the Superior Court, the
43 surcharged driver shall not be eligible for the restoration of his
44 driving privilege until at least five percent of each outstanding
45 surcharge assessment that has resulted in the suspension, including
46 interest and costs, if any, is paid to the commission. If a certificate
47 of debt is satisfied following a credit card payment, debit card
48 payment or payment by other electronic payment device and that

1 payment is reversed, a new certificate of debt shall be filed against
2 the surcharged driver unless the original is reinstated.

3 If the administrator or his designee approves a special payment
4 plan, of such duration as the administrator or his designee deems
5 appropriate, for repayment of the certificate of debt, and the driver
6 is complying with the approved plan, the plan may be continued for
7 any new surcharge not part of the certificate of debt.

8 All moneys collectible by the commission under subparagraph
9 (b) of paragraph (2) of this subsection b. shall be billed and
10 collected by the commission except as provided in P.L.1997, c.280
11 (C.2B:19-10 et al.) for the collection of unpaid surcharges.
12 Commencing on September 1, 1996, or such earlier time as the
13 Commissioner of Banking and Insurance shall certify to the State
14 Treasurer that amounts on deposit in the New Jersey Automobile
15 Insurance Guaranty Fund are sufficient to satisfy the current and
16 anticipated financial obligations of the New Jersey Automobile Full
17 Insurance Underwriting Association, all surcharges collected by the
18 commission under subparagraph (b) of paragraph (2) of this
19 subsection b. shall be remitted to the Division of Motor Vehicles
20 Surcharge Fund:

21 (i) for transfer to the Market Transition Facility Revenue Fund,
22 as provided in section 12 of P.L.1994, c.57 (C.34:1B-21.12), for the
23 purposes of section 4 of P.L.1994, c.57 (C.34:1B-21.4) until such a
24 time as all the Market Transition Facility bonds, notes and
25 obligations and all Motor Vehicle Commission bonds, notes and
26 obligations issued pursuant to that section 4 of P.L.1994, c.57
27 (C.34:1B-21.4) and the costs thereof are discharged and no longer
28 outstanding; and

29 (ii) from and after the date of certification by the Commissioner
30 of Banking and Insurance that the moneys collectible under
31 subparagraph (b) of paragraph (2) of this subsection b. are no longer
32 needed to fund the association or at such time as all Market
33 Transition Facility bonds, notes and obligations and all Motor
34 Vehicle Commission bonds, notes and obligations issued pursuant
35 to section 4 of P.L.1994, c.57 (C.34:1B-21.4) and the costs thereof
36 are discharged and no longer outstanding, for transfer to the Motor
37 Vehicle Surcharges Revenue Fund established pursuant to section 6
38 of the "Motor Vehicle Surcharges Securitization Act of 2004,"
39 P.L.2004, c.70 (C.34:1B-21.28) to be applied as set forth in section
40 6 that act. From and after such time as all bonds issued under
41 section 4 of the "Motor Vehicle Surcharges Securitization Act of
42 2004," P.L.2004, c.70 (C.34:1B-21.26) and the costs thereof are
43 discharged and no longer outstanding, all surcharges collected by
44 the commission under subparagraph (b) of paragraph (2) of this
45 subsection b. shall, subject to appropriation, be remitted to the New
46 Jersey Property-Liability Insurance Guaranty Association created
47 pursuant to section 6 of P.L.1974, c.17 (C.17:30A-6) to be used for
48 payment of any loans made by that association to the New Jersey

1 Automobile Insurance Guaranty Fund pursuant to paragraph (10) of
2 subsection a. of section 8 of P.L.1974, c.17 (C.17:30A-8); provided
3 that all such payments shall be subject to and dependent upon
4 appropriation by the State Legislature.

5 All surcharges collected by the courts pursuant to subparagraph
6 (a) of paragraph (2) of this subsection b. shall be forwarded not less
7 frequently than monthly to the Division of Revenue. The Division
8 of Revenue shall transfer: all such surcharges received prior to July
9 1, 2006, to the General Fund, and commencing July 1, 2006, all
10 such surcharges to the Unsafe Driving Surcharge Revenue Fund
11 established pursuant to section 5 of the "Motor Vehicle Surcharges
12 Securitization Act of 2004," P.L.2004, c.70 (C.34:1B-21.27) to be
13 applied as set forth in section 5 of that act. From and after such
14 time as all bonds (including refunding bonds), notes and other
15 obligations issued under section 4 of the "Motor Vehicle Surcharges
16 Securitization Act of 2004," P.L.2004, c.70 (C.34:1B-21.26), and
17 the costs thereof are discharged and no longer outstanding, all such
18 surcharges collected by the courts pursuant to subparagraph (a) of
19 paragraph (2) of this subsection b. and forwarded to the Division of
20 Revenue shall be transferred to the General Fund.

21 Upon request, the Administrative Office of the Courts shall
22 provide a monthly report to the Division of Revenue containing
23 information on the number of convictions for the offense of unsafe
24 driving pursuant to section 1 of P.L.2000, c.75 (C.39:4-97.2) that
25 were entered during such month, the amount of the surcharges that
26 were assessed by the courts pursuant to subsection f. of section 1 of
27 P.L.2000, c.75 (C.39:4-97.2) for such month, and the amount of the
28 surcharges collected by the courts pursuant to subsection f. of
29 section 1 of P.L.2000, c.75 (C.39:4-97.2) during such month.

30 (3) In addition to any other authority provided in P.L.1983, c.65
31 (C.17:29A-33 et al.), the commissioner, after consultation with the
32 commission, is specifically authorized (a) (Deleted by amendment,
33 P.L.1994, c.64), (b) to impose, in accordance with subparagraph (a)
34 of paragraph (1) of this subsection b., surcharges for motor vehicle
35 violations or convictions for which motor vehicle points are not
36 assessed under Title 39 of the Revised Statutes, or (c) to reduce the
37 number of points for which surcharges may be assessed below the
38 level provided in subparagraph (a) of paragraph (1) of this
39 subsection b., except that the dollar amount of all surcharges levied
40 under the Motor Vehicle Violations Surcharge System shall be
41 uniform on a Statewide basis for each filer, without regard to
42 classification or territory. Surcharges adopted by the commissioner
43 on or after January 1, 1984 for motor vehicle violations or
44 convictions for which motor vehicle points are not assessable under
45 Title 39 of the Revised Statutes shall not be retroactively applied
46 but shall take effect on the date of the New Jersey Register in which
47 notice of adoption appears or the effective date set forth in that
48 notice, whichever is later.

1 c. No motor vehicle violation surcharges shall be levied on an
2 automobile insurance policy issued or renewed on or after January
3 1, 1984, except in accordance with the Motor Vehicle Violations
4 Surcharge System, and all surcharges levied thereunder shall be
5 assessed, collected and distributed in accordance with subsection b.
6 of this section.

7 d. (Deleted by amendment, P.L.1990, c.8.)

8 e. The Commissioner of Banking and Insurance and the
9 commission as may be appropriate, shall adopt any rules and
10 regulations necessary or appropriate to effectuate the purposes of
11 this section.

12 f. (1) Notwithstanding any other section of law to the
13 contrary, upon receiving a certification from the Commissioner of
14 Labor and Workforce Development that a person has performed a
15 community service project pursuant to the "Motor Vehicle
16 Surcharge Community Service Program" established by section 1 of
17 P.L. , c. (C.) (pending before the Legislature as this bill) in
18 lieu of the payment of a motor vehicle surcharge or surcharges, the
19 chief administrator shall waive all surcharges levied pursuant to
20 paragraph (1) or paragraph (3) of subsection b. of this section and
21 any interest accrued thereon.

22 (2) Motor vehicle points assessed by the chief administrator
23 pursuant to section 1 of P.L.1982, c.43 (C.39:5-30.5) shall not be
24 affected by a driver's participation in the "Motor Vehicle Surcharge
25 Community Service Program."

26 (3) A driver who has any outstanding surcharges levied pursuant
27 to subparagraph (b) of paragraph (2) of subsection b. of this section
28 shall not be eligible to participate in the "Motor Vehicle Surcharge
29 Community Service Program."

30 (cf: P.L.2007, c.282, s.1)

31

32 3. This act shall take effect on the first day of the sixth month
33 following enactment.

34

35

36

STATEMENT

37

38 This bill establishes a "Motor Vehicle Surcharge Community
39 Service Program," which is to be administered by the
40 Commissioner of Labor and Workforce Development. The purpose
41 of the program is to allow a person who is unemployed but has
42 enrolled in an education or job training program to perform
43 community service in lieu of paying motor vehicle surcharges. The
44 bill requires the commissioner to coordinate with the Chief
45 Administrator of the Motor Vehicle Commission (MVC) to waive
46 motor vehicle surcharges imposed on applicants who complete a
47 community service project in participating counties and
48 municipalities.

1 In order to be eligible to participate in the program, an applicant
2 is required to demonstrate that he or she is unemployed, has been
3 assessed and is unable to pay a motor vehicle surcharge or
4 surcharges, and is enrolled in a job training or education program.
5 The process of applying for a commercial driver license or
6 endorsement constitutes job training under the bill. If the driving
7 privilege of an applicant has been suspended for failure to pay
8 surcharges, the chief administrator is required to reinstate the
9 applicant's driving privilege when the applicant commences the
10 community services program. If an applicant fails to complete a
11 community service project, the applicant's total outstanding motor
12 vehicle surcharges and any interest accrued become due
13 immediately. In addition, the applicant's driving privilege is to be
14 suspended until the applicant satisfies the outstanding surcharge
15 assessment.

16 The governing body of any county or municipality may apply to
17 the Department of Labor and Workforce Development to participate
18 in the program. The eligible community service projects are to
19 include, but not be limited to, improvements to county and
20 municipal buildings, grounds, roads, streams, and other county or
21 municipal property. The volunteer labor used by a municipality or
22 county would not displace or remove from employment any paid
23 public or private employee or in any way reduce the workforce
24 within a county or municipality. The bill further provides that a
25 qualifying applicant would not be denied participation in the
26 program due to a lack of volunteer labor projects.

27 After a person has completed a community service project under
28 the program, the bill requires the chief administrator to waive all
29 surcharges and interest levied for accumulated motor vehicle points
30 and those levied for motor vehicle violations or convictions for which
31 points are not assessed.

32 The bill provides that any driver whose outstanding surcharges
33 include levies imposed for a drunk driving conviction or refusal to
34 submit to a blood alcohol content test are not eligible to participate
35 in this program.